

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

---

TERRY LUTZ,

Plaintiff,

vs.

CHRISTOPHER MILLER; DEXTER ETHANOL, LLC, an Iowa limited liability company, TAMA ETHANOL, LLC, an Iowa limited liability company; and ALPHA HOLDINGS, LLC, an Iowa limited liability company.

Respondents.

---

No. 4:09-cv-000135-RP-TJS

**DEFENDANTS' MOTION TO DISMISS  
AND TO STAY DISCOVERY AND  
REQUEST FOR ORAL ARGUMENT**

Pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4, and for the reasons set forth in the Brief filed contemporaneously with this Motion and incorporated by reference herein, Defendants Christopher Miller (“Miller”), Dexter Ethanol, LLC (“Dexter”), Tama Ethanol, LLC (“Tama”), and Alpha Holdings, LLC (“Alpha”) (collectively, “Defendants”) move this Court for an order (1) dismissing with prejudice Plaintiff’s Complaint and Jury Demand in its entirety for failure to state a claim upon which relief can be granted and (2) staying discovery while the Motion to Dismiss is pending.

Defendants also ask the Court to set the matter for oral argument.

Respectfully submitted,



RICHARD A. MALM, AT0004930  
MEGAN J. ERICKSON, AT0009430

DICKINSON, MACKAMAN, TYLER & HAGEN, P.C.  
699 Walnut Street, Suite 1600  
Des Moines, Iowa 50309-3986  
Telephone: (515) 244-2600  
Facsimile: (515) 246-4550  
Email: [rimalm@dickinsonlaw.com](mailto:rimalm@dickinsonlaw.com)  
[merickson@dickinsonlaw.com](mailto:merickson@dickinsonlaw.com)  
ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that on June 3, 2009, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Douglas E. Gross  
Rachel T. Rowley  
Brown, Winick Law Firm  
666 Grand Ave., Ste. 2000  
Des Moines, Iowa 50309

Dawn Reiser